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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/927,545
Filing Date: August 09, 2001
Appellant(s): SCHLEMM, PETER

Alfred Dassler
For Appellant

EXAMINER'S ANSWER

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This is in response to the appeal brief filed 10/13/05 appealing from the Office action mailed 11/8/04.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is incorrect.

The amendment after final rejection filed on 2/8/05 has not been entered because while the request for reconsideration had been considered, it did not place the application in condition for allowance.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,764,900

MORRIS ET AL.

6-1998

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Morris et al. (US Patent 5,764,900).

As to claim 1, Morris et al. discloses a method of executing method steps, which comprises: checking whether an output mode is switched on; and producing an output signal in a method step and outputting the output signal only if the output mode is switched on (col. 6, lines 34-51).

As to claim 2, Morris et al. further discloses wherein the method steps are divided into modules, and the method comprises changing from one module to another module during the execution of the method steps, and wherein the output signal comprises an identifier indicating in which module the output signal was produced (col. 1, lines 50-65).

As to claim 3, Morris et al. further discloses executing the method steps in a plurality of devices, and generating the output signal with an identifier indicating the device in which the output signal was produced (col. 1, lines 50-65).

As to claim 4, Morris et al. further discloses wherein the method steps are stored in a storage device, and the method comprises reading out the method steps from the storage device and executing the method steps, and wherein the output signal comprises an identifier indicating where the method step is stored that produced the output signal (col. 3, lines 29-53).

As to claim 5, Morris et al. further discloses wherein the output signal comprises an identifier indicating in which method step the output signal was produced (col. 7, lines 6-41 and Fig. 7).

As to claim 6, Morris et al. further discloses wherein the output mode is one of a plurality of output modes, and the method comprises checking which output mode is set, and wherein the output signal comprises an identifier indicating to which output mode the output signal belongs, and wherein only the output signals belonging to the set output mode are outputted (col. 7, lines 6-41 and Fig. 7).

As to claim 7, Morris et al. further discloses outputting the output signal via an output unit as a signal selected from the group consisting of optical and acoustic signals (col. 4, lines 16-22, Title, Abstract).

As to claim 8, Morris et al. further discloses wherein the output signal is stored in a storage device, together with an indication of a time at which the output signal was stored (col. 3, lines 14-21).

As to claim 9, Morris et al. discloses a device for executing method steps, which comprises a control apparatus producing an output signal, said control apparatus being configured to check whether an output mode is switched on, and to output the output signal if the output mode is switched on (col. 6, lines 34-51).

As to claim 10, Morris et al. further discloses wherein said control apparatus is a first control apparatus and comprising a second control apparatus, and wherein one of said first and second control apparatus produces the output signal, and said first or second control apparatus outputs the output signal if an output mode is switched on, and the output signal comprises an identifier indicating whether the output signal was produced by said first or second control apparatus (col. 1, line 66- col. 2, line 8 and col. 6, lines 34-51).

As to claim 11, Morris et al. further discloses wherein the output signal includes an identifier indicating at which method step the output signal was produced (col. 7, lines 6-41 and Fig. 7).

As to claim 12, Morris et al. further discloses wherein at least one of said first and second control apparatus executes method steps in the form of program modules, and the output signal comprises an identifier indicating the module in which the output signal was produced (col. 7, lines 6-41 and Fig. 7).

As to claim 13, Morris et al. further discloses a storage device storing the method steps; and wherein at least one of said first and second control apparatus is configured to read out the method steps for the execution from the storage device; and wherein the output signal comprises an identifier indicating a location at which the method steps are stored in said storage device (col. 3, lines 29-53).

As to claim 14, Morris et al. further discloses wherein the location is identified in said storage device via a memory address (col. 5, lines 35-45).

As to claim 15, Morris et al. further discloses wherein the location is identified in said storage device via a data filename (col. 5, lines 22-35).

As to claim 16, Morris et al. further discloses input means configured to enable selective switching on and switching off of the output mode even during the execution of the method steps (col. 5, lines 6-17).

(10) Response to Argument

The section originally cited in Morris et al. by the Examiner, (col. 6, lines 34-51), discloses the use of an acoustic signal to be played by a speaker output device. The Examiner considers this to be equivalent to "producing an output signal". Since this is a sub-procedure within an overall process, the Examiner considers the output signal to be produced in a "method step".

The main point of contention seems to be whether or not the output signal is output only after checking whether an output mode is switched on. The Examiner believes that the cited section of the reference reads on the broadest reasonable interpretation of this limitation.

The Examiner considers the existence of a packet in the buffer of a client computer (client A, for example) to be equivalent to an output mode that is switched on.

If no packet is in the buffer, no acoustic signal is sent.

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If a packet is in the buffer, an acoustic signal is sent or output. Furthermore, the way that the signal is processed to be output is of a particular functioning arrangement or mode.

In order for the system or method of the reference to function, the client's buffer must inherently be checked to see if a packet is in it. Otherwise the system or method is not operable.

The Examiner maintains this interpretation for the following reasons.

The system and method of the reference to Morris et al. is for communicating digitally encoded acoustic information across a network between computers. The reference provides a discussion of the preferred embodiment in which multiple clients' computers are connected in a virtual battlefield. Each client controls a character that has a virtual spatial relationship that affects how the sounds they produce through a microphone are perceived spatially by other clients.

A sound packet of digital acoustic data based on the clients' recorded voices will only be in the buffer of other clients, if the clients are in the virtual proximity of each other.

If a packet is in the buffer of client A, then another client's virtual character (client B, for example) is in proximity of client A's virtual character in the virtual battlefield and client B has attempted to communicate with client A by recording a voice message through a microphone. Under this situation, an enhancement routine examines the source address to determine the intended virtual source of the sound. Various acoustical effects are then applied including volume control, Doppler control,

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and controlling whether to play a particular sound at all. There is also specific control to play the signal out of only, for example, client A's left or right speaker, if client B's virtual character is speaking from the virtual left or virtual right, respectively, of client A's character's location in the virtual battlefield.

Since the acoustic signals recorded by all client computer microphones are not automatically provided to all users at all times, but only to those clients with characters in respective virtual proximity (via a buffer system), the examiner considers this an output mode that is switched on.

The Examiner, again notes here that the existence of the packet in the buffer is considered on output mode because it is characteristic of a virtual, proximity, form, structure, or particular functioning arrangement (thus mode) that affects the way the acoustic signal is output (thus output mode) to a given client (from client B's microphone, through conversion to digital data that is sent to client A's buffer, and produced as an acoustic sound at client A's speaker, for example).

Furthermore, regarding the Appellant's specific arguments:

The Appellant's presently argues that the Morris reference does not disclose anything about switching on or off enhancement routines. The Examiner never has claimed that it taught such a feature, nor has the Examiner relied on such a teaching for interpretation of the reference to teach the limitations of the presently claimed invention. The Appellant's presently argues that the occurrence of no data in the buffer storage would lead to no output signal, and therefore there is no choice provided to switch an output signal on or off, because in order to achieve this, the

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output signal must be at least produced and available. The Examiner has interpreted the reference, as addressed above. The Appellant is choosing to interpret that a "choice" needs to be provided to a preexisting signal as to whether to switch the output signal on or off in his argument regarding this citation, but the Examiner is not suggesting that such a choice is a requirement for anticipation of the present claim language, as the present claim language does not include a specific "choice" with respect to switching on or off the output SIGNAL, but only CHECKING whether an output MODE is switched on and outputting the output SIGNAL only if the output MODE is switched on. The Examiner maintains that the cited portions of the reference discloses these limitations.

The Appellant further suggests that the Examiner's position is based on a misunderstanding with respect to the enhancement routines as they apply to message packets stored in a sound buffer. The Appellant notes that because the content of the buffer is always processed by the enhancement routines, the routines do not have to check if there is anything stored in the buffer. The Examiner disagrees with this conclusion. The Examiner maintains that regardless of whether the enhancement routine functions in constant, periodic, or discrete communication with the buffer, it is only providing the output of the output signal when the packet is in the buffer, not when there exists no packet in the buffer. It would therefore need to check in the broadest reasonable interpretation of the word "check" whether or not a packet exists in the buffer, and therefore, whether an output mode has been switched on.

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(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

Conclusion

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Anthony Gutierrez

AG

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1/6/05

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